

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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JUN 23 2016

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

SC Court of Appeals

Marvin H Dukes, III, Maser in Equity and Special Circuit Court Judge

Case No. 2015-CP-07-1343
Appellate Case No. 2016-000955

John Alden Bauer, III,

Appellant,

v.

Beaufort Court School District

Respondent.

**RESPONDENT'S RETURN TO APPELLANT'S MOTION TO CONSIDER
RELEVANT EVIDENCE**

Appellant has moved this Court to "hear exculpatory evidence that was blocked, withheld and concealed during Appellant's School Board Hearing, April 30 – May 2, 2015." Respondent opposes the motion.

This matter is an appeal pursuant to the S.C. Teacher Employment and Dismissal Act, S.C. Code Ann. § 59-25-480, of a decision by the Board of Trustees of the Beaufort County School Board of Trustees to terminate Appellant's employment as a teacher. Appellant appealed the decision to the circuit court, which upheld the Board's decision. Appellant now appeals the circuit court decision to this Court.

As of this writing, Appellant has submitted proof of receipt of the transcripts in this matter. In accordance with the Clerk's June 21, 2016 letter to Appellant, he has been ordered to file his initial brief and designation of matter within 15 days.

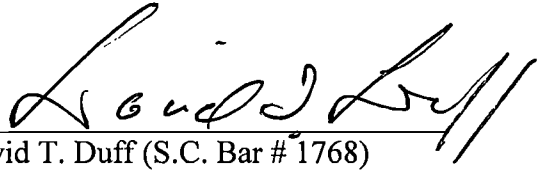
At this time, Respondent is unaware of the specific evidence that Appellant wishes the Court to consider, or of the material Appellant seeks to include in his designation of matter and/or the Record on Appeal. In that way, Appellant's motion is premature and Respondent lacks information sufficient to object more specifically.

However, Respondent opposes any motion to include in the Record any matter not entered in the proceedings below. *See* Rule 210(c) ("The Record [on Appeal] shall not . . . include matter which was not presented to the lower court or tribunal"). Respondent also opposes arguments not raised and ruled upon below. *See Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998) ("It is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial judge to be preserved for appellate review."). Respondent will similarly move to strike any arguments or evidence not included in the record below.

Regarding Appellant's request that the Court consider information related to the involvement or participation of the attorneys in this case, Respondent opposes the motion to the extent these arguments and accusations were not considered below. The emails attached to the motion were not part of the record below, and Respondent opposes their inclusion in the Record on Appeal.

For these reasons, Appellant's Motion to Consider Related Evidence should be denied.

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School District

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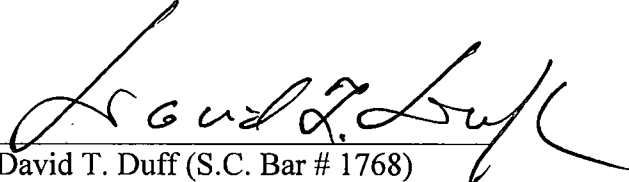
Beaufort County School District

Respondent.

PROOF OF SERVICE

I certify that I have served Respondent Beaufort County School District's Return to Appellant's Motion to Consider Relevant Evidence by depositing a copy of it in the United States Mail, postage prepaid, on June 23, 2016, addressed to *pro se* Appellant John Alden Bauer, III, 5 Gumtree Road E-11, Hilton Head Island, South Carolina, 29926.

June 23, 2016


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SC Court of Appeals

VIA HAND-DELIVERY

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

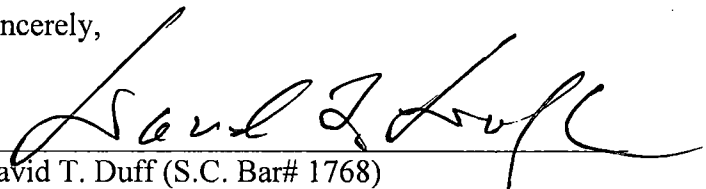
Re: John Alden Bauer, III, v. Beaufort County School District
C.A. No. 2015-CP-07-1343
Appellate Case No. 2016-000955

Dear Ms. Kitchings:

Enclosed for filing is the original and six copies of Respondent's Return to Appellant's Motion to Consider Relevant Evidence along with Proof of Service for same.

Thank you for your assistance in this matter.

Sincerely,



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The Honorable Jenny Abbott Kitchings

June 23, 2016

Page 2

Enclosures

c: *Via U.S. Mail*
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(843) 384-1506
Appellant

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